

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1-3, 6, 7, 12, 17, 23, 24, 34, 35, 37 and 40-44 are now pending, wherein claims 1, 12, 23, 34, 35, 37 and 40-43 are amended, claims 36, 38 and 39 are canceled and claim 44 is new.

Claims 1-3, 6, 7 and 34-37 are rejected for indefiniteness under 35 U.S.C. § 112, second paragraph and for being non-statutory under 35 U.S.C. § 101. These grounds of rejection are respectfully traversed.

The indefiniteness rejection is based on claim 1 allegedly mixing statutory class, while the non-statutory subject matter rejection is based on claim 1 allegedly not being tied to another statutory class or not transforming underlying subject matter to a different state or thing.

It is respectfully submitted in the context of claim 1 these rejections are inconsistent. Specifically, the elements of claim 1 that are alleged to be system elements were added to satisfy the statutory subject matter requirement by tying the method claim to another statutory class, i.e., a system. This does not make the claim an improper mixture of statutory classes, but instead the elements of claim 1 that are alleged to be system elements are recited as part of the method, i.e., providing the system. As such, claim 1 is not an improper mixture of statutory classes, but instead recites a method step that ties the method to a different statutory class, which also brings the claim within statutory subject matter. Accordingly, the indefiniteness and lack of statutory subject matter rejections should be withdrawn.

Claims 1-3, 6, 7, 12, 17, 23, 24 and 34-43 are rejected for obviousness under 35 U.S.C. § 103(a) in view of the combination of U.S. Patent No. 6,895,405 to Choi et al. (“Choi”), U.S. Patent Application Publication No. 2003/0033193 to Holloway et al. (“Holloway”) and U.S. Patent Application Publication No. 2001/0014868 to Herz et al. (“Herz”). This ground of rejection is respectfully traversed.

Applicants’ independent claims 1, 12 and 17 recite novel and inventive methods and systems for optimizing processes that involve, *inter alia*, the selection and presentation of offers to different customers in different orders. The customer responses to this presentation are analyzed to identify a selection and presentation order of offers that best fits the customer need and business context for a given profile. The combination of Choi, Holloway and Herz does not disclose or suggest such methods and systems.

Choi is directed to customer segmentation for determining the effectiveness of a survey question. Choi does not, however, disclose or suggest an analysis of the order in which survey questions are presented to identify a selection and presentation order of offers that best fits the customer need and business context for a given profile.

Holloway discloses techniques for interactive surveying in which decision trees of questions are used to avoid asking questions that are precluded based on responses to previous questions. The decision tree of Holloway is not used to in order to identify a selection and presentation order of offers that best fits the customer need and business context for a given profile.

Herz discloses a technique for automatic determination of customized prices and promotions. Herz discusses that a menu can be employed in which clusters of options can be presented to a shopper based on the shopper's interests. This menu display does not, however, involve identifying a selection and presentation order of offers that best fits the customer need and business context for a given profile. Indeed, the clustering is based solely upon information about a shopper and does not involve any information about a business context for a given profile. Additionally, the clustering is based on the interests of a single shopper and not based on a different order of offers presented to different shoppers.

Because Choi, Holloway and Herz each does not disclose or suggest identifying a selection and presentation order of offers that best fits the customer need and business context for a given profile, the combination cannot render claims 1, 12 and 23 obvious. Claims 2, 3, 6, 7, 17, 24, 34, 35, 37 and 40-43 are patentably distinguishable at least by virtue of their dependency. Accordingly, this obviousness rejection should be withdrawn.

New claim 44 is patentably distinguishable over the current grounds of rejection because the combination of Choi, Holloway and Herz does not disclose or suggest a method that involves a set of actions for a first customer profile, each action in the set of actions including a plurality of offers and a plurality of free amenities corresponding to each of the plurality of offers, and an order of presentation of the plurality of offers differs for each action, as recited in claim 44.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 106109.62202US).

Respectfully submitted,

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